REMARKS

In the Official Action dated September 16, 2005, Claims 11, 13 and 15 are pending and under consideration. Claims 11 and 15 are rejected under 35 U.S.C. §102(e) as allegedly anticipated by Lang et al. (U.S. Patent Application Publication No.: US 2005/0064501). Claims 11, 13 and 15 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Lang et al. in view of Thiam et al. (FEBS Letter, 459:285-90, 1999).

This Response addresses each of the Examiner's rejections. Applicant therefore respectfully submits that the present application is in condition for allowance. Favorable consideration of all pending claims is therefore respectfully requested.

Applicant observes that relied on Lang et al. as a reference in § 102(e) rejection and a primary reference in § 103(a) rejection. Applicant respectfully submits that Lang et al. is not a proper reference under 35 U.S.C. §§ 102 and 103.

In the first instance, Applicant observes that the present application was filed on April 20, 2001, which claims the benefit of a U.S. provisional application filed on April 20, 2000. Applicant also observes that Lang et al. was filed on November 10, 2004, which was a divisional application filed on February 19, 2002, as a U.S. national application under 35 U.S.C. 371 based on international application No. PCT/EP00/03578. Applicant observes that PCT/EP00/03578 was filed on April 19, 2000, which was based on a German application DE 199 17 990.5 filed on April 20, 1999.

Applicant respectfully submits that in order for a U.S. patent application publication, such as Lang et al., to be a 102(e) reference based on an earlier filing date of

an international application, the international application must meet the following three conditions (see MPEP § 706.02(f)(1)(I)):

- (a) an international filing date on or after November 29, 2000;
- (b) designated the United States; and
- (c) published under PCT Article 21(2) in English,

In the present case, PCT/EP00/03578 upon which Lang et al. is based was filed on April 19, 2000, before November 29, 2000. Additionally, PCT/EP00/03578 was published in German, not in English. A copy of PCT/EP00/03578 publication (first two pages) is enclosed as Exhibit A.

Accordingly, Lang et al. reference is not a proper reference under 35 U.S.C. § 102(e) in the first place.

Moreover, we observe that Lang et al. merely relate to <u>h-sgk kinase</u> or its inhibitors. Nowhere do Lang et al. disclose a method of employing <u>PKM ζ </u> inhibitors as recited in Claims 11 and 15.

As such, the rejection of Claims 11 and 15 under 35 U.S.C. §102(e) as allegedly anticipated by Lang et al. is overcome and withdrawal thereof is respectfully requested.

With respect to the § 103 rejection, Applicant respectfully submit that since the Lang et al. reference is not a proper reference under § 102, the rejection under 35 U.S.C. § 103 based on Lang et al. cannot be sustained.

In view of the foregoing amendments and remarks, it is firmly believed that the subject application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,

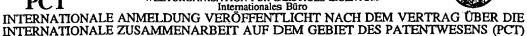
Peter I. Bernstein

Registration No. 43,497

Scully, Scott, Murphy & Presser, P.C. 400 Garden City Plaza, Ste 300 Garden City, New York 11530 (516) 742-4343 PIB/ZY:ab

Encl: Exhibit A

WELTORGANISATION FÜR GEISTIGES EIGENTUM



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(71)(72) Anmelder und Erfinder: LANG, Florian [DE/DE]; Eberhard Karls Universität, Medizinische Fakultät, Physiologisches Institut I, Gmelinstrasse 5, D-72076 Tübingen (DE).

(72) Erfinder; und

- (75) Erfinder/Anmelder (nur für US): WALDEGGER, Siegfried [DE/DE]; Bebelallee 138, D-22297 Hamburg (DE). WAGNER, Carsten [DE/DE]; Habichtweg 6, D-72076 Tübingen (DE). BRÖER, Stefan [DE/DE]; Bodäckerstrasse 9, D-72770 Reutlingen-Ohmenhausen (DE). KLINGEL, Karin [DE/DE]; Hefelestrasse 16, D-72108 Rottenburg (DE).
- (74) Anwalt: ISENBRUCK, Günter; Bardehle, Pagenberg, Dost, Altenburg, Geissler, Isenbruck, Theodor-Heuss-Anlage 12, D-68165 Mannheim (DE).

(81) Bestimmungsstaaten: AE, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BY, CA, CH, CN, CU, CZ, DE, DK, EE, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MD, MG, MK, MN, MW, MX, NO, NZ, PL, PT, RO, RU, SD, SE, SG, SI, SK, SL, TJ, TM, TR, TT, UA, UG, US, UZ, VN, YU, ZA, ZW, ARIPO Patent (GH, GM, KE, LS, MW, SD, SL, SZ, TZ, UG, ZW), eurasisches Patent (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), europäisches Patent (AT, BE, CH, CY, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE), OAPI Patent (BF, BJ, CF, CG, CI, CM, GA, GN, GW, ML, MR, NE, SN, TD, TG).

Veröffentlicht

Mit internationalem Recherchenbericht. Vor Ablauf der für Änderungen der Ansprüche zugelassenen Frist; Veröffentlichung wird wiederholt falls Änderungen eintreffen.

- (54) Title: MEDICAMENTS CONTAINING INHIBITORS OF CELL-VOLUME REGULATED HUMAN KINASE H-SGK
- (54) Bezeichnung: ARZNEIMITTEL ENTHALTEND HEMMSTOFFE DER ZELLVOLUMENREGULIERTEN HUMANEN KINASE H-SGK

(57) Abstract

The invention relates to medicaments which contain inhibitors or activators of cell-volume regulated human kinase h-sgk. Medicaments of this type are suitable for treating conditions, in which an increased or reduced expression of h-sgk is identified.

(57) Zusammenfassung

Die vorliegende Erfindung betrifft Arzneimittel, enthaltend Hemmstoffe oder Aktivatoren der zellvolumenregulierten humanen Kinase h-sgk. Solche Arzneimittel sind zur Therapie von Krankheitszuständen, bei denen eine gesteigerte oder verminderte Expression der h-sgk gefunden wird, geeignet.

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Arzneimittel enthaltend Hemmstoffe der zellvolumenregulierten humanen Kinase h-sgk

Die vorliegende Erfindung betrifft Arzneimittel, enthaltend Hemmstoffe oder Aktivatoren der zellvolumenregulierten humanen Kinase h-sgk. Solche Arzneimittel sind zur Therapie von Krankheitszuständen, bei denen eine gesteigerte oder verminderte Expression der h-sgk gefunden wird, geeignet. Die h-sgk sowie Verfahren zu ihrer Herstellung wurden bereits in der EP-0 861 896 beschrieben, deren Inhalt ausdrücklich auch Bestandteil der vorliegenden Beschreibung sein soll.

10 Begriffsbestimmungen:

h-sgk:

human serum and glucocorticoid dependent kinase (Serin/Threonin-Kinase)

ENaC:

epithelialer Na⁺-Kanal

MDEG:

mammalian degenerin (Waldmann, R., Lazdunski, M. (1998) Current Opinion

in Neurobiology 8: 418-424); ein synonymer Begriff ist "BNC" (brain Na⁺-

15

5

channel)

TGFB1:

tumor growth factor β_1

NKCC:

Na⁺-, K⁺-, 2Cl⁻-Cotransporter

HEPES:

[4-(2-Hydroxyethyl)-piperazino]-ethanesulfonsäure

SEM:

standard error of mean

20 Transdominantinhibitorische

Kinase:

durch Mutation veränderte h-sgk: Lysin in der Position 127 wurde durch Arginin ersetzt (K127R); die Mutation liegt in der katalytischen Region und unterbindet die katalytische Funktion der Kinase.

25 Eine gesteigerte Expression der h-sgk wird bei Diabetes mellitus, Arteriosklerose, M. Alzheimer, Leberszirrhose, M. Crohn, fibrosierender Pankreatitis, Lungenfibrose und chronischer Bronchitis vermehrt gefunden. Die gesteigerte Bildung der h-sgk kann durch Stimulation der Expression durch TGFβ₁ erklärt werden (Fig. 1). Fibrosierende Erkrankungen werden durch gesteigerte Bildung und herabgesetzten Abbau von Matrixproteinen 30 hervorgerufen. Beides sind Wirkungen von TGFβ₁. In Fibroblasten kann die gesteigerte